

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, and DAWN BUCKINGHAM, M.D., in her official capacity as Commissioner of the Texas General Land Office,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY; and ALEJANDRO MAYORKAS, in his official capacity as Secretary of the Department of Homeland Security,

Defendants.

Civil Action No. 7:21-cv-00272

THE STATE OF MISSOURI; THE STATE OF TEXAS,

Plaintiffs,

v.

JOSEPH R. BIDEN, in his official capacity as President of the United States, *et al.*

Defendants.

Civil Action No. 7:21-cv-00420  
(formerly No. 6:21-cv-00052)

**JOINT MOTION FOR ENTRY OF FINAL JUDGMENT AND FOR BRIEFING  
SCHEDULE**

Plaintiffs and Defendants in the above-captioned cases have conferred about further proceedings in these cases since the entry of the Court's Memorandum Opinion and Order granting Plaintiffs' motion for Preliminary Injunction in part (ECF No. 128) and the Court's subsequent clarifications about the scope of the preliminary injunction. *See* ECF No. 147

(Transcript of motion hearing on March 28, 2024). The parties agree that the Court may enter final judgment in these cases without additional dispositive motion practice or further contested litigation regarding the merits of Plaintiffs' claims. The parties further agree that, without prejudice to any argument that any party may raise in any appeal, the most efficient course of action for all parties and for the Court is for the Court to enter a final judgment that is consistent with the Court's Memorandum Opinion and Order and a permanent injunction consistent with the preliminary injunction as clarified by the Court. *See, e.g., FTC v. Assail, Inc.*, 98 F. App'x 316, 317 (5th Cir. 2004) (stating that "the district court had the power to convert the preliminary injunction into a permanent injunction"). No party waives the right to appeal the final judgment.

In the course of conferring about the terms of a final judgment, the parties have identified one discrete issue concerning the form of final judgment on which they have been unable to agree. While the parties agree that the Court's preliminary injunction, as clarified, should be converted into a permanent injunction, the parties disagree about whether the DHS Border Wall Plan Pursuant to Presidential Proclamation 10142, as amended, may or should be subject to a remedy of vacatur under 5 U.S.C. § 706(2) as part of the final judgment. The proposed final judgment attached to this filing reflects the parties' agreement as to the appropriate final disposition of these cases, subject only to the Court's resolution of whether to include the disputed vacatur remedy set forth in paragraph 5 of the proposed order. Plaintiffs request that the Court include paragraph 5 in the final judgment. Defendants object to the inclusion of paragraph 5. To resolve that narrow issue, the parties propose to present streamlined briefing to the Court according to the following schedule:

- April 24, 2024: Plaintiffs' brief, not to exceed 15 pages;
- May 8, 2024: Defendants' response brief, not to exceed 15 pages;

- May 15, 2024: Plaintiffs' reply brief, not to exceed 10 pages.

The parties also are continuing to confer, consistent with the Court's instructions during motion hearing on March 28, about the type and frequency of information Defendants will agree to provide about funds subject to the permanent injunction. In the event the parties are unable to reach an agreement on that issue, they will raise any disputes in their supplemental briefs for the Court's resolution.

A proposed final judgment and a separate order establishing a briefing schedule are attached.

Dated: April 10, 2024

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**CERTIFICATE OF WORD COUNT**

I certify that the total number of words in this motion, exclusive of the matters designated for omission, is 476, as counted by Microsoft Word.

/s/ Andrew I. Warden  
ANDREW I. WARDEN

**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2024, I electronically filed a copy of the foregoing motion. Notice of this filing will be sent via email to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

/s/ Andrew I. Warden  
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